

SECOND REGULAR SESSION

SENATE BILL NO. 682

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CAUTHORN.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3649S.011

AN ACT

To repeal sections 143.121 and 143.124, RSMo, and to enact in lieu thereof two new sections relating to income taxation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 143.121 and 143.124, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 143.121 and 143.124, to
3 read as follows:

143.121. 1. The Missouri adjusted gross income of a resident individual
2 shall be the taxpayer's federal adjusted gross income subject to the modifications
3 in this section.

4 2. There shall be added to the taxpayer's federal adjusted gross income:

5 (a) The amount of any federal income tax refund received for a prior year
6 which resulted in a Missouri income tax benefit;

7 (b) Interest on certain governmental obligations excluded from federal
8 gross income by Section 103 of the Internal Revenue Code. The previous sentence
9 shall not apply to interest on obligations of the state of Missouri or any of its
10 political subdivisions or authorities and shall not apply to the interest described
11 in subdivision (a) of subsection 3 of this section. The amount added pursuant to
12 this paragraph shall be reduced by the amounts applicable to such interest that
13 would have been deductible in computing the taxable income of the taxpayer
14 except only for the application of Section 265 of the Internal Revenue Code. The
15 reduction shall only be made if it is at least five hundred dollars;

16 (c) The amount of any deduction that is included in the computation of
17 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 amount deducted relates to property purchased on or after July 1, 2002, but
20 before July 1, 2003, and to the extent the amount deducted exceeds the amount
21 that would have been deductible pursuant to Section 168 of the Internal Revenue
22 Code of 1986 as in effect on January 1, 2002; and

23 (d) The amount of any deduction that is included in the computation of
24 federal taxable income for net operating loss allowed by Section 172 of the
25 Internal Revenue Code of 1986, as amended, other than the deduction allowed by
26 Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as
27 amended, for a net operating loss the taxpayer claims in the tax year in which the
28 net operating loss occurred or carries forward for a period of more than twenty
29 years and carries backward for more than two years. Any amount of net
30 operating loss taken against federal income taxes but disallowed against Missouri
31 income taxes pursuant to this paragraph since July 1, 2002, may be carried
32 forward and taken against any loss on the Missouri income tax return for a period
33 of not more than twenty years from the year of the initial loss.

34 3. There shall be subtracted from the taxpayer's federal adjusted gross
35 income the following amounts to the extent included in federal adjusted gross
36 income:

37 (a) Interest or dividends on obligations of the United States and its
38 territories and possessions or of any authority, commission or instrumentality of
39 the United States to the extent exempt from Missouri income taxes pursuant to
40 the laws of the United States. The amount subtracted pursuant to this
41 paragraph shall be reduced by any interest on indebtedness incurred to carry the
42 described obligations or securities and by any expenses incurred in the production
43 of interest or dividend income described in this paragraph. The reduction in the
44 previous sentence shall only apply to the extent that such expenses including
45 amortizable bond premiums are deducted in determining the taxpayer's federal
46 adjusted gross income or included in the taxpayer's Missouri itemized
47 deduction. The reduction shall only be made if the expenses total at least five
48 hundred dollars;

49 (b) The portion of any gain, from the sale or other disposition of property
50 having a higher adjusted basis to the taxpayer for Missouri income tax purposes
51 than for federal income tax purposes on December 31, 1972, that does not exceed
52 such difference in basis. If a gain is considered a long-term capital gain for
53 federal income tax purposes, the modification shall be limited to one-half of such
54 portion of the gain;

55 (c) The amount necessary to prevent the taxation pursuant to this chapter
56 of any annuity or other amount of income or gain which was properly included in
57 income or gain and was taxed pursuant to the laws of Missouri for a taxable year
58 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose
59 death the taxpayer acquired the right to receive the income or gain, or to a trust
60 or estate from which the taxpayer received the income or gain;

61 (d) Accumulation distributions received by a taxpayer as a beneficiary of
62 a trust to the extent that the same are included in federal adjusted gross income;

63 (e) The amount of any state income tax refund for a prior year which was
64 included in the federal adjusted gross income;

65 (f) The portion of capital gain specified in section 135.357, RSMo, that
66 would otherwise be included in federal adjusted gross income;

67 (g) The amount that would have been deducted in the computation of
68 federal taxable income pursuant to Section 168 of the Internal Revenue Code as
69 in effect on January 1, 2002, to the extent that amount relates to property
70 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that
71 amount exceeds the amount actually deducted pursuant to Section 168 of the
72 Internal Revenue Code as amended by the Job Creation and Worker Assistance
73 Act of 2002; and

74 (h) For all tax years beginning on or after January 1, 2005, the amount
75 of any income received for military service while the taxpayer serves in a combat
76 zone which is included in federal adjusted gross income and not otherwise
77 excluded therefrom. As used in this section, "combat zone" means any area which
78 the President of the United States by Executive Order designates as an area in
79 which armed forces of the United States are or have engaged in combat. Service
80 is performed in a combat zone only if performed on or after the date designated
81 by the President by Executive Order as the date of the commencing of combat
82 activities in such zone, and on or before the date designated by the President by
83 Executive Order as the date of the termination of combatant activities in such
84 zone.

85 4. There shall be added to or subtracted from the taxpayer's federal
86 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment
87 provided in section 143.351.

88 5. There shall be added to or subtracted from the taxpayer's federal
89 adjusted gross income the modifications provided in [section] **sections 143.124**
90 **and** 143.411.

143.124. 1. Other provisions of law to the contrary notwithstanding, the
2 total amount of all annuities, pensions, or retirement allowances above the
3 amount of six thousand dollars annually provided by any law of this state, the
4 United States, or any other state to any person except as provided in subsection
5 4 of this section, shall be subject to tax pursuant to the provisions of this chapter,
6 in the same manner, to the same extent and under the same conditions as any
7 other taxable income received by the person receiving it. For purposes of this
8 section, annuity, pension, or retirement allowance shall be defined as an annuity,
9 pension or retirement allowance provided by the United States, this state, any
10 other state or any political subdivision or agency or institution of this or any
11 other state. For all tax years beginning on or after January 1, 1998, for purposes
12 of this section, annuity, pension or retirement allowance shall be defined to
13 include 401(k) plans, deferred compensation plans, self-employed retirement
14 plans, also known as Keogh plans, annuities from a defined pension plan and
15 individual retirement arrangements, also known as IRAs, as described in the
16 Internal Revenue Code, but not including Roth IRAs, as well as an annuity,
17 pension or retirement allowance provided by the United States, this state, any
18 other state or any political subdivision or agency or institution of this or any
19 other state. An individual taxpayer shall only be allowed a maximum deduction
20 of six thousand dollars pursuant to this section. Taxpayers filing combined
21 returns shall only be allowed a maximum deduction of six thousand dollars for
22 each taxpayer on the combined return.

23 2. For the period beginning July 1, 1989, and ending December 31, 1989,
24 there shall be subtracted from Missouri adjusted gross income for that period,
25 determined pursuant to section 143.121, the first three thousand dollars of
26 retirement benefits received by each taxpayer:

27 (1) If the taxpayer's filing status is single, head of household or qualifying
28 widow(er) and the taxpayer's Missouri adjusted gross income is less than twelve
29 thousand five hundred dollars; or

30 (2) If the taxpayer's filing status is married filing combined and their
31 combined Missouri adjusted gross income is less than sixteen thousand dollars;
32 or

33 (3) If the taxpayer's filing status is married filing separately and the
34 taxpayer's Missouri adjusted gross income is less than eight thousand dollars.

35 3. For [the] tax years beginning on or after January 1, 1990, there shall
36 be subtracted from Missouri adjusted gross income, determined pursuant to

37 section 143.121, a maximum of the first six thousand dollars of retirement
38 benefits received by each taxpayer from sources other than privately funded
39 sources, and for tax years beginning on or after January 1, 1998, there shall be
40 subtracted from Missouri adjusted gross income, determined pursuant to section
41 143.121, a maximum of the first one thousand dollars of any retirement allowance
42 received from any privately funded source for tax years beginning on or after
43 January 1, 1998, but before January 1, 1999, and a maximum of the first three
44 thousand dollars of any retirement allowance received from any privately funded
45 source for tax years beginning on or after January 1, 1999, but before January 1,
46 2000, and a maximum of the first four thousand dollars of any retirement
47 allowance received from any privately funded source for tax years beginning on
48 or after January 1, 2000, but before January 1, 2001, and a maximum of the first
49 five thousand dollars of any retirement allowance received from any privately
50 funded source for tax years beginning on or after January 1, 2001, but before
51 January 1, 2002, and a maximum of the first six thousand dollars of any
52 retirement allowance received from any privately funded sources for tax years
53 beginning on or after January 1, 2002. A taxpayer shall be entitled to the
54 maximum exemption provided by this subsection:

55 (1) If the taxpayer's filing status is single, head of household or qualifying
56 widow(er) and the taxpayer's Missouri adjusted gross income is less than
57 twenty-five thousand dollars; or

58 (2) If the taxpayer's filing status is married filing combined and their
59 combined Missouri adjusted gross income is less than thirty-two thousand dollars;
60 or

61 (3) If the taxpayer's filing status is married filing separately and the
62 taxpayer's Missouri adjusted gross income is less than sixteen thousand dollars;
63 or

64 **(4) If the taxpayer is age sixty-five or over, except that for such**
65 **taxpayer the maximum deduction shall be as follows, if that taxpayer**
66 **does not meet one of the other qualifications provided in this**
67 **subsection:**

68 **(a) In tax years beginning on or after January 1, 2007, but ending**
69 **on or before December 31, 2007, the maximum deduction from a private**
70 **or non-private source under this subsection shall be one thousand**
71 **dollars;**

72 **(b) In tax years beginning on or after January 1, 2008, but ending**

73 **on or before December 31, 2008, the maximum deduction from a private**
74 **or non-private source under this subsection shall be two thousand**
75 **dollars;**

76 **(c) In tax years beginning on or after January 1, 2009, but ending**
77 **on or before December 31, 2009, the maximum deduction from a private**
78 **or non-private source under this subsection shall be three thousand**
79 **dollars;**

80 **(d) In tax years beginning on or after January 1, 2010, the**
81 **maximum deduction from a private or non-private source under this**
82 **subsection shall be six thousand dollars.**

83 4. If a taxpayer's adjusted gross income exceeds the adjusted gross income
84 ceiling for such taxpayer's filing status, as provided in subdivisions (1), (2) and
85 (3) of subsection 3 of this section, such taxpayer shall be entitled to an exemption
86 equal to the greater of zero or the maximum exemption provided in subsection 3
87 of this section reduced by one dollar for every dollar such taxpayer's income
88 exceeds the ceiling for his or her filing status.

89 5. For purposes of this section, any Social Security benefits otherwise
90 included in Missouri adjusted gross income shall be subtracted; but Social
91 Security benefits shall not be subtracted for purposes of other computations
92 pursuant to this chapter, and are not to be considered as retirement benefits for
93 purposes of this section.

94 6. The provisions of subdivisions (1) and (2) of subsection 3 of this section
95 shall apply during all tax years in which the federal Internal Revenue Code
96 provides exemption levels for calculation of the taxability of Social Security
97 benefits that are the same as the levels in subdivisions (1) and (2) of subsection
98 3 of this section. If the exemption levels for the calculation of the taxability of
99 Social Security benefits are adjusted by applicable federal law or regulation, the
100 exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall
101 be accordingly adjusted to the same exemption levels.

102 7. The portion of a taxpayer's lump sum distribution from an annuity or
103 other retirement plan not otherwise included in Missouri adjusted gross income
104 as calculated pursuant to this chapter but subject to taxation under Internal
105 Revenue Code Section 402 shall be taxed in an amount equal to ten percent of the
106 taxpayer's federal liability on such distribution for the same tax year.

107 8. For purposes of this section, retirement benefits received shall not
108 include any withdrawals from qualified retirement plans which are subsequently

109 rolled over into another retirement plan.

110 9. The exemptions provided for in this section shall not affect the
111 calculation of the income to be used to determine the property tax credit provided
112 in sections 135.010 to 135.035, RSMo.

113 10. The exemptions provided for in this section shall apply to any annuity,
114 pension, or retirement allowance as defined in subsection 1 of this section to the
115 extent that such amounts are included in the taxpayer's federal adjusted gross
116 income and not otherwise deducted from the taxpayer's federal adjusted gross
117 income in the calculation of Missouri taxable income. This subsection shall not
118 apply to any individual who qualifies under federal guidelines to be one hundred
119 percent disabled.

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Bill

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